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09/842,747	04/25/2001	Louis Bouchard	AVALUC-01800	7367

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HAVERSTOCK & OWENS LLP  
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EXAMINER
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PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
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2151

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02/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/842,747

Applicant(s)

BOUCHARD, LOUIS

Examiner

HASSAN PHILLIPS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to communications filed November 5, 2007.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 5, 2007 has been entered.

#### ***Response to Arguments***

3. Applicant's arguments filed November 5, 2007 with regards to the rejection of claims 1, 2, 4-7, 9-14, 16-20, and 22-24 under 35 U.S.C. 103(a) as being unpatentable over Cloutier in view of Stein have been fully considered but they are not persuasive. On page 8 of the remarks, applicant argued: Both Cloutier and Stein teach systems specifically directed to email services and email messages. Neither Stein, nor Cloutier teach a messaging system configured to store and retrieve multiple different message types, such as voice messages, fax messages, and email messages as found in a unified messaging system. Examiner respectfully disagrees with applicants assertions.

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4. With regards to applicant's remarks, Cloutier clearly teaches a system directed to e-mail, voice mail, facsimile etc. (see abstract). Thus, examiner maintains it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier with the teachings of Stein to further disclose a messaging system configured to store and retrieve multiple different message types, such as voice messages, fax messages, and email messages as found in a unified messaging system, as claimed by applicant, for the same reasons indicated in the previous action.

5. Accordingly the references supplied by the examiner in the previous office action covers the claimed limitations. The rejections are thus sustained. Applicant is requested to review the prior art of record for further consideration.

6. Applicant's arguments with respect to claims 1, 2, 4-7, 9-14, 16-20, and 22-24 under 35 U.S.C. 102(b) as being anticipated by Amin have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 2, 4-7, 9-14, 16-20, 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (hereinafter Smith), U.S. Patent 6,33,973 (previously made of record and not relied upon).

9. In considering claims 1, 7, 14, and 19, Smith teaches a system and method of utilizing a push model to provide access to a message list in one or more of a voice, a fax, an e-mail and a unified mailbox through a wireless network, the method comprising the steps of:

a. determining if an updated mailbox content list is to be transmitted by a server (5300) to a wireless device (1100), wherein the server independently determines if and when to transmit the updated mailbox content list, further wherein the updated mailbox content list comprises a list of stored messages with multiple different message formats, (col. 7, lines 15-24, and col. 7, line 51-col. 8, line 10);

b. forming a first communication link through a wireless network (1800) between the server and the wireless device, (col. 7, lines 15-24, and col. 7, line 51-col. 8, line 10);

c. transmitting the updated mailbox content list from the server to the wireless device over the first communication link, (col. 7, lines 15-24, and col. 7, line 51-col. 8, line 10);

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d. automatically receiving the updated mailbox content list by the wireless device from the server through the first communication link, (col. 7, lines 15-24, and col. 7, line 51-col. 8, line 10);

e. disconnecting the first communication link after the wireless device receives the updated mailbox content list, (col. 7, lines 15-24, and col. 7, line 51-col. 8, line 10);

f. scrolling through the updated mailbox content list and selecting a message therefrom with the wireless device, (col. 8, lines 26-45, also see col. 9, lines 54-60 and col. 10, lines 17-30 and lines 47-56);

g. forming a second communication link through the wireless network thereby linking the wireless device and the server, (col. 9, lines 54-60 and col. 10, lines 17-30 and lines 47-56);

h. selectively receiving the message on the wireless device from the server over the second communication link, (col. 9, lines 54-60 and col. 10, lines 17-30 and lines 47-56);

i. providing the message to a user of the wireless device, (col. 9, lines 54-60 and col. 10, lines 17-30 and lines 47-56).

10. In considering claims 2, 9, and 20, Smith teaches a new message notification, including the updated content list, (col. 8, lines 26-45 and col. 8, line 66-col. 9, line 5).

11. In considering claims 4, 16, and 22, Smith teaches scrolling through the updated mailbox content list without accessing the wireless network, (col. 8, lines 26-45, also see col. 9, lines 54-60 and col. 10, lines 17-30 and lines 47-56).

12. In considering claims 5, 17, and 23, Smith further teaches the user issuing a command using the wireless device, (col. 8, lines 26-45, also see col. 9, lines 54-60 and col. 10, lines 17-30 and lines 47-56).

13. In considering claims 6, 18, and 24, Smith further teaches the server playing the message according to a command given by the user, (col. 8, lines 26-45, also see col. 9, lines 54-60 and col. 10, lines 17-30 and lines 47-56).

14. In considering claim 10, Smith teaches after being sent by the server, the new message notification and the updated content list can be viewed by a user with the wireless device, (col. 8, lines 26-45).

15. In considering claim 11, Smith teaches the user may scroll through the updated mailbox content list with the wireless device, (col. 8, lines 26-45).

16. In considering claim 12, Smith further teaches a user selecting a message by issuing a command to the server, (col. 9, lines 54-60 and col. 10, lines 17-30 and lines 47-56).

17. In considering claim 13, Smith further teaches the server delivering the message selected by the user and the message is played for the user by the wireless device, (col. 9, lines 54-60 and col. 10, lines 17-30 and lines 47-56).

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 1, 2, 4-7, 9-14, 16-20, 22, 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloutier, in view of Stein et al (hereinafter Stein), U.S. Patent 6,289,212 (supplied by Applicant).

20. In considering claims 1, 7, 14, and 19, Cloutier teaches a method and system for utilizing a push model to provide access to messages in one or more of a voice, a fax, an e-mail and a unified mailbox through a wireless network, the method comprising the steps of:

a. determining if a message alert is to be transmitted by a server (120) to a wireless device (170), wherein the server independently determines if and when to transmit the message alert, further wherein the message alert is associated with

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multiple different message formats, (col. 2, lines 30-49, col. 3, line 62-col. 4, line 14, col. 8, lines 11-21, also see Fig. 1);

b. forming a first communication link through a wireless network between the server and the wireless device, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);

c. transmitting the message alert from the server to the wireless device over the first communication link, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);

d. automatically receiving the message alert by the wireless device from the server through the first communication link, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);

e. disconnecting the first communication link after the wireless device receives the updated mailbox content list, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);

f. viewing the alert on the wireless device, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);

g. forming a second communication link through the wireless network thereby linking the wireless device and the server for receiving a message, (col. 2, lines 41-45);

h. and providing the message to the user, (col. 2, lines 41-45).

Although the method of Cloutier shows substantial features of the claimed invention, it fails to explicitly disclose: the message alert being a mailbox content list;

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selecting a message with the wireless device; and receiving the message over a wireless network.

Nevertheless, in a similar field of endeavor, Stein teaches a method for providing electronic mail services during network unavailability comprising: receiving a mailbox content list from a server over a wireless network, (col. 3, lines 8-39); scrolling through the mailbox content list with a wireless device, (col. 3, lines 8-39); and selecting a message with the wireless device, (col. 3, lines 8-39).

Thus given the teachings of Stein, it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier to show the message alert being a mailbox content list that a user could scroll through on a wireless device in order to select a message to be received over the wireless network. This would have provided the user the flexibility to select which message the user desired to receive, in the case that multiple messages were available for the user on the server, (Stein, col. 3, lines 24-32).

21. In considering claims 2, 9, and 20, Cloutier teaches a new message notification. See col. 2, lines 30-41.

22. In considering claims 4, 16, and 22, Cloutier teaches viewing the alert without accessing the wireless network. See col. 2, lines 30-41.

23. In considering claims 5, 17, and 23, Cloutier further teaches the user issuing a command using the wireless device. See col. 6, lines 50-54.

24. In considering claims 6, 18, and 24, Cloutier further teaches the server playing the message according to a command given by the user. See col. 6, lines 54-61.

25. In considering claim 10, the system of Cloutier provides a means for viewing a new message notification and an updated content list by a user with the wireless device. See col. 2, lines 30-41.

26. In considering claim 11, although the system of Cloutier shows substantial features of the claimed invention, it fails to explicitly disclose: a) Scrolling through a mailbox content list.

Nevertheless, in a similar field of endeavor, Stein teaches a method for providing electronic mail services during network unavailability comprising: a) Scrolling through a mailbox content list with a wireless device, (col. 3, lines 24-39).

Thus given the teachings of Stein, it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier to show scrolling through an updated mailbox content list with the wireless device. This would have provided the user the flexibility to select which message the user desired to receive, in the case that multiple

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messages were available for the user on the server along with the new message, Stein, col. 3, lines 24-32. 15.

27. In considering claim 12, Cloutier further teaches a user selecting a message by issuing a command to the server. See col. 6, lines 50-54.

28. In considering claim 13, Cloutier further teaches the server delivering the message selected by the user and the message being played for the user by the wireless device. See col. 6, lines 54-61.

29. Claims 3, 8, 15, 21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of the Applicants Admitted Prior Art (AAPA).

30. In considering claims 3, 8, 15, and 21, Smith discloses a wireless network (1800) used for SMS communications, (col. 7, lines 15-24).

Although the disclosed teachings of Smith show substantial features of the claimed invention, they fail to expressly disclose the wireless network having a low data-bandwidth, and a high-data latency.

Nevertheless, it was well known in the art at the time of the present invention for wireless networks (in particular SMS networks) to have a low data-bandwidth, and a high-data latency. This was admitted by the applicant in the specification on page 1, line 33, and page 2, lines 1-5.

Thus, if not implicit in the teachings of Smith, given the teachings of the AAPA it would have been obvious to one of ordinary skill in the art to modify the teachings of Smith to show the wireless network having a low data-bandwidth, and a high-data latency. This would have advantageously utilized the wireless network disclosed by Smith in a fashion well known to those of ordinary skill in the art at the time of applicant's invention.

31. Claims 3, 8, 15, 21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloutier, in view of Stein, and further in view of the Applicants Admitted Prior Art (AAPA).

32. In considering claims 3, 8, 15, and 21, although the combined methods of Cloutier and Stein show substantial features of the claimed invention, they fail to expressly disclose the wireless network having a low data-bandwidth, and a high-data latency.

Nevertheless, it was well known in the art at the time of the present invention for wireless networks to have a low data-bandwidth, and a high-data latency. This was admitted by the applicant in the specification on page 1, line 33, and page 2, lines 1-5.

Thus, if not implicit in the teachings of Cloutier and Stein, given the teachings of the AAPA it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier and Stein to show the wireless network having a low data-bandwidth, and a high-data latency. This would have shown that the methods of

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Cloutier and Stein work in networks that were well known at the time of the present invention such as wireless networks with low data-bandwidth, and high-data latency.

### ***Conclusion***

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HASSAN PHILLIPS whose telephone number is (571)272-3940. The examiner can normally be reached on Mon-Fri (8am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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